

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN RE:	§	CHAPTER 7
	§	
AMERICAN UNDERWRITING SERVICES, LLC,	§	Case No. 18-58406-SMS
	§	
_____ Debtor.	§	
	§	
S. GREGORY HAYS, Chapter 7 Trustee for the Estate of American Underwriting Services, LLC,	§	Adv. Pro. No. 19-05202
	§	
Plaintiff,	§	
v.	§	
	§	
NEIL WILEY, JAMES RUSSELL WILEY, THE WILEY GROUP, INC., TW3 TRANSPORTATION, LLC, TW3 LOGISTICS LLC, and TRANSPORT SOUTH INSURANCE AGENCY, LLC,	§	
	§	
_____ Defendants.	§	

**MOTION FOR AN ORDER DIMISSING THE ADVERSARY  
PROCEEDING WITHOUT PREJUDICE**

S. Gregory Hays, Chapter 7 Trustee for the bankruptcy estate (the “**Estate**”) of American Underwriting Services, LLC, Debtor in the above captioned bankruptcy case (the “**Bankruptcy Case**”) and Plaintiff (“**Plaintiff**”) in the above captioned adversary proceeding (the “**Adversary Proceeding**”), by and through counsel, hereby files—pursuant to Fed. R. Civ. P. 41, made applicable to this Adversary Proceeding by Fed. R. Bank. P. 7041—this *Motion for an Order Dismissing the Adversary Proceeding Without Prejudice* to request that the Court dismiss the Adversary Proceeding as to all defendants without prejudice. In support thereof, the Plaintiff provides as follows:

While the Plaintiff continues to believe that the Estate has valid claims against Neil Wiley and the other defendants, the Plaintiff has determined that the dismissal of the Adversary Proceeding as to all defendants without prejudice is in the best interests of the Estate. Since this Adversary Proceeding was filed, Defendant Neil Wiley has suffered severe health issues. Further, either Defendant Neil Wiley nor the other defendants appear to have sufficient resources to satisfy a judgment and, in light of the circumstances of the case, it now appears that the cost of litigating the claims will exceed the benefit that may be obtained by litigating the claims in the Adversary Proceeding to judgment, notwithstanding that valid claims may exist against Mr. Wiley and the other defendants. The Trustee has conducted an investigation of the assets of Defendant Neil Wiley prior to filing this Motion. Defendant Russell Wiley is only recently released from prison and already faces a significant restitution obligation as part of criminal charges brought against him as well as significant judgments pending against him. Defaults have already been entered against the corporate defendants herein and the Trustee is advised and informed that each of these entities are defunct and have no business or assets.

The relief requested herein is without prejudice.

Defendant Neil Wiley has advised the Trustee, through his counsel, that he does not oppose and supports the dismissal of the Adversary Proceeding for the reasons stated herein.

**WHEREFORE**, the Plaintiff respectfully prays that the Court enter an order, substantially in the form as the proposed order attached as **Exhibit A** hereto, that dismisses the Adversary

Proceeding as to all defendants without prejudice and grants Plaintiff such other and further relief as the Court deems just and proper.

Dated: April 28, 2021.

LAW OFFICES OF HENRY F. SEWELL JR., LLC

/s/ Henry F. Sewell, Jr.

Henry F. Sewell, Jr.  
Georgia Bar No. 636265  
Buckhead Centre  
2964 Peachtree Road NW, Suite 555  
Atlanta, GA 30305  
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*Counsel for S. Gregory Hays, Chapter 7 Trustee for  
the bankruptcy estate of American Underwriting  
Services, LLC, Debtor*

Exhibit A

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN RE:	§	CHAPTER 7
	§	
AMERICAN UNDERWRITING	§	Case No. 18-58406-SMS
SERVICES, LLC,	§	
	§	
<u>Debtor.</u>	§	
	§	
S. GREGORY HAYS, Chapter 7 Trustee for the	§	
Estate of American Underwriting Services, LLC,	§	Adv. Pro. No. 19-05202
	§	
Plaintiff,	§	
v.	§	
	§	
NEIL WILEY, JAMES RUSSELL WILEY,	§	
THE WILEY GROUP, INC., TW3	§	
TRANSPORTATION, LLC, TW3	§	
LOGISTICS LLC, and TRANSPORT	§	
SOUTH INSURANCE AGENCY, LLC,	§	
	§	
<u>Defendants.</u>	§	

**ORDER DIMISSING ADVERSARY PROCEEDING  
WITHOUT PREJUDICE**

This matter is before the Court on the *Motion for an Order Dismissing the Adversary Proceeding Without Prejudice* (the “**Motion**”) that was filed in the above captioned Adversary Proceeding (the “**Adversary Proceeding**”)—pursuant to Fed. R. Civ. P. 41, made applicable to this Adversary Proceeding by Fed. R. Bank. P. 7041—by Plaintiff S. Gregory Hays, as Chapter 7 Trustee (“**Plaintiff**”) for the Estate of American Underwriting Services, LLC, Debtor in the above captioned Bankruptcy Case and Plaintiff in the Adversary Proceeding, to request that the Court dismiss the Adversary Proceeding as to all defendants without prejudice.

Having reviewed and considered the Motion and all other matters of records, including the lack of objection thereto, after due deliberation thereon and finding that good cause exists for the entry of this Order and that no further notice or opportunity for hearing is required, for good cause shown, it is hereby:

ORDERED that Adversary Proceeding is DISMISSED as to all defendants without prejudice; and it is further

ORDERED that the relief granted herein is without prejudice to any right to refile or file claims against Mr. Wiley or any of the other defendants.

\*\*\*END OF ORDER\*\*\*

Prepared and Presented by:  
LAW OFFICES OF HENRY F. SEWELL JR., LLC

/s/ Henry F. Sewell, Jr.  
Henry F. Sewell, Jr.  
Buckhead Centre  
2964 Peachtree Road NW, Suite 555  
Atlanta, GA 30305  
(404) 926-0053; hsewell@sewellfirm.com

*Counsel for S. Gregory Hays, Chapter 7 Trustee for the  
bankruptcy estate of American Underwriting Services, LLC,  
Debtor*

**Parties to be Served:**

Eric T. Johnson, PC  
4390 Earney Road Suite 230  
Woodstock, Georgia 30188

Office of the U.S. Trustee  
362 Richard Russell Federal Building  
75 Ted Turner Drive, SW  
Atlanta, GA 30303

LAW OFFICES OF HENRY F. SEWELL JR., LLC  
Henry F. Sewell, Jr.  
Buckhead Centre  
2964 Peachtree Road NW, Suite 555  
Atlanta, GA 30305

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Plaintiff,	§	
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NEIL WILEY, JAMES RUSSELL WILEY, THE WILEY GROUP, INC., TW3 TRANSPORTATION, LLC, TW3 LOGISTICS LLC, and TRANSPORT SOUTH INSURANCE AGENCY, LLC,	§	
	§	
_____ Defendants.	§	

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served a true and correct copy of the *Motion for an Order Dismissing the Adversary Proceeding Without Prejudice* by ECF or by mailing a copy of the same via first class mail with adequate postage affixed thereon to allow proper delivery as indicated below:

Eric T. Johnson, PC  
4390 Earney Road Suite 230  
Woodstock, Georgia 30188  
(*And via ECF*)

Office of the U.S. Trustee  
362 Richard Russell Federal Building  
75 Ted Turner Drive, SW  
Atlanta, GA 30303

James Russell Wiley  
6201 Arnall Court, Nw.  
Acworth, Georgia 30101

The Wiley Group, Inc.  
5605 Glenridge Drive, Suite 900  
Atlanta, Georgia 30342

TW3 Transportation, LLC  
3390 Peachtree Road, Suite 520  
Atlanta, Georgia 30326

TW3 Logistics, LLC  
3390 Peachtree Road, Suite 520  
Atlanta, Georgia 30326

Transport South Insurance Agency, LLC  
4390 Earney Road, Suite 230  
Woodstock, Georgia 30188

Dated: April 28, 2021.

LAW OFFICES OF HENRY F. SEWELL JR., LLC

/s/ Henry F. Sewell, Jr.

Henry F. Sewell, Jr.  
Georgia Bar No. 636265  
Buckhead Centre  
2964 Peachtree Road NW, Suite 555  
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*Counsel for S. Gregory Hays, Chapter 7 Trustee for  
the bankruptcy estate of American Underwriting  
Services, LLC, Debtor*